

REMARKS

Applicants respectfully request reconsideration of the above-identified patent application. Claims 2, 4, 5, 7-13 and 16-20 are pending in this application. Claims 1, 3, 6, 14-15 and 21 are cancelled by this Response. Claims 2, 4, 7, 16, and 17 are amended. Claims 2 and 16 are now the only independent claims in the application. Applicant respectfully traverses the rejections as conceivably applied to the amended claims.

I. Art Rejections

A. §103(a) Obviousness Rejection Based on Caille in view of Hultquist

Claims 2, 4, 5 and 19 were rejected under 35 U.S.C. §103(a) over European Patent 790211 (“Caille”) in view of U.S. Patent 5,050,921 (“Hultquist”). Applicant respectfully traverses this rejection as conceivably applied to the amended claims.

It is well settled that obviousness cannot be established by modifying or combining the teachings of the prior art, absent some teaching, suggestion, or incentive supporting the modification or combination. In re Geiger, 2 U.S.P.Q.2d 1276 (Fed. Cir. 1987); ACS Hospital Systems, Inc. v. Montefiore Hospital, 221 U.S.P.Q. 929 (Fed. Cir. 1984). Even if the prior art can be modified to obtain the claimed invention, that fact alone does not render the claims obvious unless the prior art suggests the desirability of the modification. In re Laskowski, 10 U.S.P.Q.2d 1397 (Fed. Cir. 1989); In re Gordon, 221 U.S.P.Q. 1125 (Fed. Cir. 1984).

Applicant agrees with the Examiner that Caille:

“does not disclose the upper portions of the arms following a radius of curvature having a center on an exterior side of the arms so that the arms have a somewhat “S” shape having a lower portion extending along a radius of curvature opening inwardly and an upper portion extending along a radius of curvature opening outwardly.” Office Action, Pg. 5.

Hultquist is directed to a clamp with a detachable cam. The Hultquist device includes a pair of clamping members that are pivotally connected by a bolt or pin. Each clamping member is planar following a series of bends through a single plane. The two clamping members are pivotally interconnected in a straight overlapped configuration. As a result, each clamping member extends through a separate plane, thereby creating the same misalignment discussed earlier during prosecution. The Hultquist device includes a cam member that holds the clamping member in the clamped position. The cam member is mounted to the face of one of the clamping members so that it is aligned with the other clamping member. The lower end of each clamping member terminates in a face clamping jaw. The jaws are not laterally extended, but are instead the width of the clamping members.

Applicant submits that modification of Hultquist to include an offset pivot location, like in Caille, would destroy its intended function. Hultquist includes a cam member that is mounted to the face of one clamping member to engage the other clamping member. Given the construction and connection of the cam member, the two clamping members must be misaligned for the cam member to function properly. In other words, the cam member of Hultquist relies on the offset relationship between the two clamping members to function.

It is further submitted that there is no motivation in any of the prior art of record for combining these references to teach the subject matter of claims 2, 4, 5 and 19.

D. §103(a) Obviousness Rejection Based on Caille in view of Eckert

Claims 7, 8 and 16 were rejected under 35 U.S.C. §103(a) over Caille in view of U.S. Patent 1,468,344 ("Eckert"). Applicant respectfully traverses this rejection as conceivably applied to the amended claims.

Applicant agrees with the Examiner that Caille does not disclose “a first jaw affixed to said first arm, said jaw extending substantially perpendicularly to a longitudinal extent of said first arm, wherein said jaw includes a plurality of teeth” as recited in amended claim 7; that the “plurality of teeth are oriented along a radius of curvature having a center on an interior side of said first arm” as recited in claim 8; or jaws with “a plurality of teeth oriented along a curve” as recited in amended independent claim 16.

Eckert is directed to a pipe lifting device. The Eckert device includes a pair of levers that are pivotally connected by a bolt in a tong-like arrangement. The Eckert device is specially configured to grip a long pipe from the side. Accordingly, the Eckert device includes jaws that extend from only one side of the levers. Eckert includes flat levers that are interconnected at a straight overlap. As a result, the levers of Eckert are misaligned and do not extend through a common plane.

Applicant submits that modification of Caille to include an Eckert jaw would destroy the jaw’s intended function. The Eckert jaws 14 are set completely off to one side of the arms 10 so that a pipe can be captured in the jaw and run along side the arms. In Caille, the elements 12, 13 are at the center of the arms 6, 7 not offset to either side. If the Eckert jaws replaced elements 12, 13 of Caille, it would not longer function as a pipe lifter because the pipe would hit the arms. In other words, the jaws of Eckert rely on the offset relationship between the jaws and arms to function.

It is further submitted that there is no motivation in any of the prior art of record for combining these references to teach the subject matter of claims 7, 8 and 16.

E. §103(a) Obviousness Rejection Based on Caille in view of Eckert and Shigemitsu

Claims 9, 10, 17 and 18 were rejected under 35 U.S.C. §103(a) over Caille in view of Eckert and Japanese Patent 405286682 ("Shigemitsu")

Applicant agrees with the Examiner that neither Caille nor Eckert "disclose the jaw manufactured from a segment of angle iron having a first leg and a second leg and said plurality of teeth being defined on said first leg" as recited in claims 9 and 17. Office Action, Pg. 6.

Shigemitsu is directed to device for lifting a concrete block. The device includes a pair of arms that are pivotally interconnected in a tong-like arrangement. Each arm is essentially flat (or planar) having two straight sections extending from opposite sides of a bend. The two arms are overlapped and joined by a pivot pin. The Shigemitsu device includes jaws that are specially configured to fit around the outside profile of a concrete block.

Applicant respectfully submits that Shigemitsu does nothing to overcome the deficiencies of Caille and Eckert. None of the references teach or suggest a jaw manufactured from a segment of angle iron having a plurality of teeth. Accordingly, no combination of Caille, Eckert and Shigemitsu could result in the subject matter of claims 9, 10, 17 and 18 .

Further, Applicant submits that modification of Caille and Eckert to include Shigemitsu jaw would destroy the jaw's intended function. The Shigemitsu jaws 14 are for lifting concrete blocks. They include elements 10a and 10b which make the jaws unsuitable for other purposes, such as lifting pipes in Eckert.

It is further submitted that there is no motivation in any of the prior art of record for combining these references to teach the subject matter of claims 10 or 18. Claims 10 and 18 depend from claims 9 and 17 respectively and are allowable for at least the reasons stated above in connection with those claims.

F. §103(a) Obviousness Rejection Based on Caille in view of Eckert and Shigemitsu and Cook

Claims 11 and 12 were rejected under 35 U.S.C. §103(a) over Caille in view of Eckert, Shigemitsu and U.S. Patent 5,056,845 (“Cook”). Claims 11 and 12 ultimately depend from independent claim 2 and should be allowable for at least the reasons stated above.

H. §103(a) Obviousness Rejection Based on Caille in view of Hultquist and Dickey

Claims 13 and 20 were rejected under 35 U.S.C. §103(a) over Caille in view of Hultquist and U.S. Patent 5,364,147 (“Dickey”)

Neither Callie nor Hultquist disclose “handles mounted on the lower portion of the arms” as recited in claims 13 and 20. The Examiner asserts that reference 44 on the lower section of arm 2 of Caille “appears to be a handle.” If Examiner has reason to believe element 44 is a handle, such as access to an English translation, please let the Applicant know. As it stands, Applicant cannot ascertain what reference 44 is merely from the figures.

Dickey is directed to a device for lifting railroad timber. The device includes four arms (essentially two pair of arms) that are interconnected in a manner that permits the arms to close on a railroad timber. The Dickey arms are *not* connected in a conventional tong-like manner. Instead, the arms are connected to opposite ends of a crossbar. One pair of arms is pivotally connected to one end of the crossbar and the other pair of arms is pivotally connected to the opposite end of the crossbar. The crossbar is selected to have a length that is approximately the size of the object to be lifted. As a result, different crossbars are required to lift objects of different widths. The spacing between the arms is different such that one pair of arms can be fitted within the other pair of arms.

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Claims 13 and 20 have been amended to recite that each arm has a handle and that the handle is “positioned perpendicular to said common plane.” Neither Caille, Hultquist nor Dickey show two handles each perpendicular to the common plane as recited in claims 13 and 20.

Further, Applicant submits that there is no motivation in any of the prior art of record for combining these references to teach the subject matter of claims 13 and 20.

II. Conclusion

In view of the above amendments and remarks, it is respectfully submitted that the present application is in condition for allowance. A notice to that effect is earnestly and respectfully requested.

Respectfully submitted,

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